

GREGORY A. BROWER  
United States Attorney  
District of Nevada

ROBERT R. EDELMAN  
Assistant United States Attorney  
Nevada Bar. No. 8438  
333 Las Vegas Blvd. South, Suite 5000  
Las Vegas, Nevada 89101  
Phone: (702)388-6336  
Facsimile: (702)388-6787  
Email: robert.edelman@usdoj.gov

RONALD J. TENPAS  
Assistant Attorney General  
STEVEN O'ROURKE (Appearing under LR IA 10-3)  
Environmental Enforcement Section  
Environment & Natural Resources Division  
United States Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Phone: (202) 514-2779; Fax: (202) 514-2583  
E-Mail: steve.o'rourke@usdoj.gov  
Attorneys for the United States of America.

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

REPUBLIC DUMPCO, INC.,  
REPUBLIC SILVER STATE  
DISPOSAL INC. (d/b/a REPUBLIC  
SERVICES OF SOUTHERN NEVADA),  
and CLARK COUNTY,

Defendants.

Civ. No: 08:1024

**COMPLAINT**

The United States of America, by the authority of the  
Attorney General of the United States and through the undersigned  
attorneys, acting at the request of the Administrator of the

1 United States Environmental Protection Agency ("EPA") and the  
2 Bureau of Land Management ("BLM") of the Department of the  
3 Interior, files this complaint and allege as follows:

4 **NATURE OF ACTION**

5 1. This is a civil action brought against Republic Dumpco,  
6 Inc. ("Republic Dumpco") and Republic Silver State Disposal Inc.  
7 d/b/a Republic Services of Southern Nevada (hereinafter "RSSN"),  
8 and Clark County, Nevada (collectively these three entities are  
9 the "Defendants"). Defendants operate and have operated the  
10 Sunrise Mountain Landfill in Las Vegas, Nevada ("Landfill").  
11 Plaintiff seeks injunctive relief and civil penalties under the  
12 Clean Water Act ("CWA"), 33 U.S.C. §§ 1251-1387, and the Resource  
13 Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901-6992k,  
14 and also seeks damages for trespass and breach of contract.

15 **JURISDICTION, VENUE, NOTICE**

16 2. This Court has jurisdiction over the subject matter of  
17 this action under 28 U.S.C. §§ 1331 (Federal question), 1345  
18 (United States as plaintiff), and 1355 (Fine, penalty, or  
19 forfeiture), Section 309(b) of the CWA, 33 U.S.C. § 1319(b)  
20 (Civil actions), and Section 7003(a) of RCRA, 42 U.S.C. § 6973(a)  
21 (Imminent hazard).

22 3. Venue is proper in the District of Nevada pursuant to  
23 28 U.S.C. §§ 108 (Nevada), 1391(b) (Venue generally), and 1395(a)  
24 (Fine, penalty, or forfeiture), Section 309(b) of the CWA, 42  
25 U.S.C. § 1319(b) (Civil actions), and Section 7003(a) of RCRA, 42  
26

1 U.S.C. § 6973(a) (Imminent hazard) because it is the judicial  
2 district in which Defendants are doing business, in which the  
3 land fill is located, and in which the violations occurred.

4 4. Notice of this action has been provided to the Nevada  
5 Division of Environmental Protection.

6 **DEFENDANTS**

7 5. Defendant Republic DUMPCO is a corporation organized  
8 and existing under the laws of the State of Nevada and doing  
9 business in the State of Nevada. Republic DUMPCO is a "person"  
10 within the meaning of Section 502(5) of the CWA, 33 U.S.C.  
11 § 1362(5) and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15),  
12 because it is a corporation. Republic DUMPCO has operated and  
13 continues to operate the Landfill.

14 6. Defendant Republic Services of Southern Nevada (RSSN)  
15 is a corporation organized and existing under the laws of the  
16 State of Nevada and does business in the State of Nevada. RSSN  
17 is a "person" within the meaning of Section 502(5) of the CWA, 33  
18 U.S.C. § 1362(5) and Section 1004(15) of RCRA, 42 U.S.C.  
19 § 6903(15), because it is a corporation. RSSN has operated and  
20 continues to operate the Landfill.

21 7. Clark County is a political subdivision of the State of  
22 Nevada. Clark County is a "person" within the meaning of Section  
23 502(5) of the CWA, 33 U.S.C. § 1362(5) and Section 1004(15) of  
24 RCRA, 42 U.S.C. § 6903(15). Clark County has operated and  
25 continues to operate the Landfill.

**GENERAL ALLEGATIONS**

8. The Sunrise Mountain Landfill ("the Landfill") is located on Vegas Valley Drive, Clark County, Nevada approximately three miles from the city limits of Las Vegas. The Landfill is located near an unnamed Wash that feeds into the Las Vegas Wash. The Las Vegas Wash feeds into Lake Mead. The unnamed Wash, the Las Vegas Wash, and Lake Mead are each a "water of the United States" and a "navigable water" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

9. At all times relevant to this Complaint, Clark County has leased property from BLM for use as the Landfill. At all times relevant to this Complaint, Clark County has contracted with several corporations to operate the Landfill. Republic DUMPCO and RSSN are past and present operators of the Landfill, by contract with Clark County.

10. The Landfill began accepting wastes in approximately 1952. By approximately April 1995, the Landfill had been closed, and it is no longer accepting waste.

11. On April 28, 1993, the State of Nevada issued General Permit GNV0022233, a general permit for storm water discharges associated with industrial activity in that State. The Nevada General Storm Water Permit sets forth several conditions applicable to dischargers of storm water, including requirements to develop and implement a storm water pollution prevention program ("SWPPP"), perform periodic storm water evaluations,

1 operate and maintain treatment or control facilities to prevent  
2 unauthorized discharges, prevent discharges of substances that  
3 would cause a violation of the water quality standards of the  
4 State of Nevada, and monitor any noncompliance. A discharger  
5 must submit a complete and timely Notice of Intent to be covered  
6 by the General Permit ("NOI"), submit a new NOI when the original  
7 permit expires, and pay an annual fee. On July 19, 1993, DUMPCO  
8 submitted the appropriate forms to obtain coverage under the  
9 General Permit for the Landfill. Beginning in July 19, 1993, the  
10 Landfill was covered by and subject to the Nevada General Storm  
11 Water Permit.

12 12. Intermittent storms between 1995 and the present  
13 resulted in the discharge of pollutants from the Landfill. Since  
14 1995 to the present, a variety of pollutants have been released  
15 from the Landfill, including: medical wastes, asbestos, gravel,  
16 sand, rip-rap, and municipal refuse.

17 13. On September 11, 1998, at least two separate heavy  
18 rainstorms struck the area of the Landfill. During or after the  
19 September 1998 Storms, pollutants were discharge from the  
20 Landfill into the unnamed Wash, into the Las Vegas Wash, and into  
21 Lake Mead. The pollutants included medical wastes, asbestos,  
22 gravel, sand, rip-rap, and a municipal refuse.

23 14. On April 26, 1999, EPA Region IX, to an imminent and  
24 substantial endangerment resulting from the Landfill, issued to  
25 Defendants a CWA compliance order that requires them to take the  
26

1 necessary actions to come into compliance with the CWA at this  
2 site and abate the endangerment.

3 15. On April 26, 1999, EPA Region IX issued to the  
4 Defendants, among others, an Administrative Order pursuant to  
5 Section 7003(a) of RCRA, 42 U.S.C. § 6973(a). EPA issued the  
6 RCRA Administrative Order to protect the public health and the  
7 environment from an imminent and substantial endangerment  
8 resulting from the Landfill.

9 16. The RCRA Administrative Order required Defendants to  
10 properly close the landfill, which includes assessing the current  
11 landfill conditions, designing and implementing corrective  
12 measures, and developing and implementing a long-term operation  
13 and maintenance plan for the Landfill.

14 17. EPA has issued three separate Notices of Violation to  
15 Defendants for failure to comply with the RCRA Administrative  
16 Order, on February 16, 2000, June 18, 2001, and on January 18,  
17 2002.

18 **FIRST CLAIM FOR RELIEF**  
19 **(RCRA: Imminent and Substantial Endangerment)**

20 18. Paragraphs 1 through 17 are re-alleged and incorporated  
21 herein by reference.

22 19. Defendants have contributed and/or are contributing to  
23 the past or present handling, storage, treatment, transportation,  
24 or disposal of solid waste at the Landfill. The past or present  
25 handling, storage, treatment, transportation, or disposal of  
26

1 solid waste at the Landfill may present an imminent and  
2 substantial endangerment to health or the environment.

3 20. Pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, the  
4 United States is entitled to appropriate injunctive relief,  
5 including an Order requiring Defendants to comply with the RCRA  
6 Administrative Order and otherwise abate the endangerment.

7 **SECOND CLAIM FOR RELIEF**  
8 **(RCRA: Penalties for Violation of Administrative Order)**

9 21. Paragraphs 1 through 17 are re-alleged and incorporated  
10 herein by reference.

11 22. Defendants have willfully violated, or failed or  
12 refused to comply with, the RCRA Administrative Order issued by  
13 EPA pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a),  
14 requiring actions to abate the imminent and substantial  
15 endangerment to health or the environment.

16 23. Pursuant to Section 7003(b) of RCRA, Defendants are  
17 each liable for civil penalties not to exceed \$6,500 per day for  
18 each violation occurring after March 15, 2004 and \$5,500 per day  
19 for each violation occurring between January 31, 1997 and March  
20 15, 2004.

21 **THIRD CLAIM FOR RELIEF**  
22 **(CWA, Violations of Administrative Order)**

23 24. Paragraphs 1 through 17 are realleged and incorporated  
24 herein by reference.

25 25. On April 26, 1999, EPA Region IX, responding to an  
26 imminent and substantial endangerment resulting from the

1 Landfill, issued to Defendants a CWA compliance order that  
2 requires them to take the necessary actions to come into  
3 compliance with the CWA at this site and abate the endangerment.

4 26. RSSN and Republic DUMPCO have violated the  
5 administrative order "In the Matter of: Republic Disposal Urban  
6 Maintenance Processing Co., Inc., Docket No. CWA-309-99-14."

7 27. RSSN and Republic Dumpco's violation of the CWA  
8 administrative Order subject RSSN and Republic Dumpco to  
9 injunctive relief and a civil penalty not to exceed \$32,500 per  
10 day for each violation occurring after March 15, 2004 and \$27,500  
11 per day for each violation occurring between January 31, 1997 and  
12 March 15, 2004. 33 U.S.C. § 1319(b) and (d).

13 **FOURTH CLAIM FOR RELIEF**  
14 **(CWA: Leachate Discharges Without a Permit)**

15 28. Paragraphs 1 through 17 are realleged and incorporated  
16 herein by reference.

17 29. Leachate was discharged through a discharge channel at  
18 the Landfill into the unnamed wash from at least one seep at the  
19 Landfill from approximately September 11, 1998 until  
20 approximately October 2, 1998.

21 30. Leachate was discharged through a discharge channel at  
22 the Landfill into the unnamed wash from at least one seep at the  
23 Landfill for at least one day, approximately July 8-9, 1999.

24 31. The lower channel is a point source within the meaning  
25 of Section 502(14) of the CWA, 33 U.S.C. § 1362(14). Leachate  
26



1 discharges from landfills are point source discharges within the  
2 meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

3 32. The Nevada General Storm Water Permit did not authorize  
4 discharges of leachate from the Landfill, and RSSN and Republic  
5 Dumpco were not authorized to discharge pollutants pursuant to  
6 any other NPDES permits.

7 33. RSSN and Republic Dumpco's unpermitted discharges of  
8 leachate from the Landfill violate Section 301 of the CWA, 33  
9 U.S.C. § 1311, subject RSSN and Republic Dumpco to injunctive  
10 relief and a civil penalty not to exceed \$32,500 per day for each  
11 violation occurring after March 15, 2004 and \$27,500 per day for  
12 each violation occurring between January 31, 1997 and March 15,  
13 2004. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4.

14 **FIFTH CLAIM FOR RELIEF**  
15 **(CWA, Violations of Nevada General Permit:**  
16 **Failure to Develop, Submit, or Implement SWPPP)**

17 34. Paragraphs 1 through 17 are realleged and incorporated  
18 herein by reference.

19 35. The Nevada General Storm Water Permit requires that  
20 permittees develop and submit to the Nevada Department of  
21 Environmental Protection ("NDEP") a Storm Water Pollution  
22 Prevention Plan ("SWPPP"). Preparation of a SWPPP requires  
23 specific facility information, development of site-specific Best  
24 Management Practices (BMPs) for storm water (which may include  
25 construction and maintenance requirements), and periodic  
26

1 evaluations. Once approved by NDEP, the permittee must implement  
2 the SWPPP at the site.

3 36. Part I, provision C.3 of the Nevada General Storm Water  
4 Permit requires that the SWPPP be completed within six months of  
5 the authorization date. Thus, beginning on at least January 19,  
6 1994, RSSN and Republic Dumpco were required to complete a SWPPP.  
7 Part I, provision C.4 of the Nevada General Storm Water Permit  
8 requires that the SWPPP be submitted to NDEP within seven months  
9 of the authorization date. Thus, beginning on at least February  
10 19, 1994, RSSN and Republic Dumpco were required to submit a  
11 SWPPP to NDEP.

12 37. Part I, provision C.3 of the Nevada General Storm Water  
13 Permit requires that the SWPPP be implemented within one year of  
14 the authorization date. Beginning on at least July 19, 1994,  
15 RSSN and Republic Dumpco were required to implement an approved  
16 SWPPP.

17 38. Prior to actions taken in response to EPA's Clean Water  
18 Act order, RSSN and Republic Dumpco had not developed or  
19 submitted to NDEP any SWPPP. In response to EPA's Clean Water  
20 Act administrative order, RSSN and Republic Dumpco have been  
21 working to develop an approvable SWPPP. On June 24 2000, RSSN  
22 and Republic Dumpco submitted a SWPPP, but NDEP found the SWPPP  
23 to be inadequate. As of the date of this Complaint, an  
24 approvable SWPPP has not been prepared or submitted to NDEP.  
25  
26

1           39. From at least July 19, 1994 until the present, RSSN and  
2 Republic Dumpco failed to implement an adequate SWPPP.

3           40. RSSN and Republic Dumpco's failures to prepare, submit,  
4 or implement an adequate, approved SWPPP violate the CWA and the  
5 Nevada General Storm Water Permit, and subject RSSN and Republic  
6 Dumpco to injunctive relief and a civil penalty not to exceed  
7 \$32,500 per day for each violation occurring after March 15, 2004  
8 and \$27,500 per day for each violation occurring between January  
9 31, 1997 and March 15, 2004. 33 U.S.C. § 1319(d); 40 C.F.R.  
10 § 19.4.

11                               **SIXTH CLAIM FOR RELIEF**  
12                               **(CWA, Violations of Nevada General Permit:**  
13                               **Pollutant Discharges Causing Violations of**  
14                               **Water Quality Standard)**

15           41. Paragraphs 1 through 17 are realleged and incorporated  
16 herein by reference.

17           42. Part I, provision D.6. of the Nevada General Storm  
18 Water Permit mandates that "there shall be no discharge of  
19 substances that would cause a violation of the water quality  
20 standards of the State of Nevada."

21           43. The Nevada Administrative Code requires that all  
22 surface waters must be free from floating debris and other  
23 floating materials in amounts sufficient to be unsightly or in  
24 amounts sufficient to interfere with any beneficial use of the  
25 water. Nevada Administrative Code § 445A.121.2. The Nevada  
26 Administrative Code requires that all surface waters must be free  
from materials attributable to domestic or industrial waste in

1 amounts sufficient to create a public nuisance or in amounts  
2 sufficient to interfere with any beneficial use of the water.  
3 Nevada Administrative Code § 445A.121.3. The Nevada  
4 Administrative Code sets forth certain numeric limits on  
5 pollutants as water quality standards.

6 44. The Las Vegas Wash provides several beneficial uses,  
7 including but not limited to irrigation, livestock watering, non-  
8 contact recreation, industrial supply, wildlife propagation, and  
9 aquatic life propagation. Nevada Administrative Code § 445A.121.

10 45. Following the 9/98 Storms, beneficial uses of Las Vegas  
11 Wash were substantially impaired for a significant period of time  
12 due to the presence of floating, suspended, and settled garbage  
13 in wash. Storm water discharges from the Landfill have exceeded  
14 Nevada's numeric water quality standards for total suspended  
15 solids.

16 46. RSSN and Republic Dumpco's discharges of storm water  
17 from the Landfill that cause a violation of the water quality  
18 standards of the State of Nevada violated the CWA and the Nevada  
19 General Storm Water Permit, and subject RSSN and Republic Dumpco  
20 to injunctive relief and a civil penalty not to exceed \$32,500  
21 per day for each violation occurring after March 15, 2004 and  
22 \$27,500 per day for each violation occurring between January 31,  
23 1997 and March 15, 2004. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4.

**SEVENTH CLAIM FOR RELIEF**  
**(CWA, Violations of Nevada General Permit:**  
**Failure to Operate and Maintain Facility Properly)**

47. Paragraphs 1 through 17 are realleged and incorporated herein by reference.

48. Part II, provision A.2 provides that "[t]he permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities, collection systems or pump stations installed or used by the permittee to achieve compliance with the terms and conditions of this permit."

49. After the 9/98 Storms, the storm water control facilities at the Landfill were compromised and the Landfill was vulnerable to damage in the event of further rain.

50. Until RSSN and Republic Dumpco began work to comply with EPA's Clean Water Act administrative order, RSSN and Republic Dumpco did not repair or otherwise maintain the storm water control facilities at the Landfill.

51. As of the date of this Complaint, RSSN and Republic Dumpco have not fully repaired or otherwise maintained the storm water control facilities at the Landfill.

52. RSSN and Republic Dumpco failed to properly operate and maintain all treatment or control facilities from at least September 11, 1998 to the present.

53. RSSN and Republic Dumpco's failure to properly operate and maintain all treatment or control violate the CWA and the

1 Nevada General Storm Water Permit, and subject RSSN and Republic  
2 Dumpco to injunctive relief and a civil penalty not to exceed  
3 \$32,500 per day for each violation occurring after March 15, 2004  
4 and \$27,500 per day for each violation occurring between January  
5 31, 1997 and March 15, 2004. 33 U.S.C. § 1319(d); 40 C.F.R.  
6 § 19.4.

7 **EIGHTH CLAIM FOR RELIEF**  
8 **(CWA, Violations of Nevada General Permit:**  
9 **Failure to Monitor Impacts of Noncompliance)**

10 54. Paragraphs 1 through 17 are realleged and incorporated  
11 herein by reference.

12 55. Part II, provision A.3 of the Nevada General Storm  
13 Water Permit mandates that "[t]he permittee shall take all  
14 reasonable steps to minimize any adverse impact to receiving  
15 waters resulting from noncompliance with any effluent limitations  
16 specified in this permit, including such accelerated or  
17 additional monitoring as necessary to determine the nature and  
18 impact of the noncomplying discharge."

19 56. Following the September 11, 1998 rains, RSSN and  
20 Republic Dumpco performed only a rough field assessment to  
21 monitor the nature and impact of the discharges. RSSN and  
22 Republic Dumpco did no other monitoring of the nature and impact  
23 of the discharges.

24 57. RSSN and Republic Dumpco failed to adequately monitor  
25 in the event of noncompliance from at least September 11, 1998  
26 until April 26, 1999.

1        58. RSSN and Republic Dumpco's failure to monitor in the  
2 event of noncompliance violated the CWA and the Nevada General  
3 Storm Water Permit, and subject RSSN and Republic Dumpco to  
4 injunctive relief and a civil penalty not to exceed \$32,500 per  
5 day for each violation occurring after March 15, 2004 and \$27,500  
6 per day for each violation occurring between January 31, 1997 and  
7 March 15, 2004. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4.

8                                **NINTH CLAIM FOR RELIEF**  
9                                **(CWA, Violations of Nevada General Permit:**  
                                 **Failure to Report Discharges and Non-Compliance)**

10        59. Paragraphs 1 through 17 are realleged and incorporated  
11 herein by reference.

12        60. Part I, provision D.13 mandates that an oral report of  
13 noncompliance or discharge which may seriously endanger health or  
14 the environment be provided as soon as possible, but no later  
15 than 24 hours from the time the permittee becomes aware of the  
16 circumstances, with a written report to follow within 10 days.

17        61. On September 11, 1998, construction debris and trash  
18 washed off the Landfill into the unnamed Wash.

19        62. On information and belief, following September 11,  
20 1998, RSSN and Republic Dumpco never orally reported the  
21 noncompliance and discharges.

22        63. RSSN and Republic Dumpco did not file any written  
23 report that construction debris and trash washed off the Landfill  
24 until November 2, 1998, when Environmental Technologies of Nevada  
25  
26

1 provided a notice of release on behalf of RSSN and Republic  
2 Dumpco to the Nevada Office of Emergency Management.

3 64. RSSN and Republic Dumpco's failure to orally report,  
4 and failure to timely file a written report, of the noncompliance  
5 and discharges which may have seriously endangered health or the  
6 environment violated the CWA and the Nevada General Storm Water  
7 Permit, and subject RSSN and Republic Dumpco to injunctive relief  
8 and a civil penalty not to exceed \$32,500 per day for each  
9 violation occurring after March 15, 2004 and \$27,500 per day for  
10 each violation occurring between January 31, 1997 and March 15,  
11 2004. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4.

12 **TENTH CLAIM FOR RELIEF**  
13 **(CWA, Violations of Nevada General Permit:**  
14 **Failure to Perform Periodic Evaluations and Submit**  
15 **Reports and Certifications of such Evaluations)**

16 65. Paragraphs 1 through 17 are realleged and incorporated  
17 herein by reference.

18 66. Part I, provision C.3.c. of the Nevada General Storm  
19 Water Permit requires that permittees perform periodic  
20 evaluations of the Landfill and storm water BMPs as required by  
21 Part I. Part I, provision C.1.b. of the Nevada General Storm  
22 Water Permit requires that these periodic evaluations begin one  
23 year after the authorization date, and continue annually  
24 thereafter.

25 67. Part I, provisions C.4.a.2 and C.1.c of the Nevada  
26 General Storm Water Permit requires that permittees submit annual  
reports and compliance certifications to NDEP. These annual



1 reports and compliance certifications are to be submitted one  
2 month after each evaluation performed pursuant to Part I,  
3 provision C.3.c. of the Nevada General Storm Water Permit.

4 68. RSSN and Republic Dumpco did not perform periodic  
5 evaluations of the Landfill and storm water BMPs from at least  
6 July 19, 1994 until November 30, 2000.

7 69. RSSN and Republic Dumpco did not submit annual reports  
8 and compliance certifications to NDEP as required by Part I,  
9 provisions C.4.a.2 and C.1.c of the permit from at least August  
10 19, 1994 until November 30, 2000.

11 70. RSSN and Republic Dumpco's failure to perform periodic  
12 evaluations of the Landfill and storm water BMPs, and failure to  
13 submit annual reports and compliance certifications violate the  
14 CWA and the Nevada General Storm Water Permit, and subject RSSN  
15 and Republic Dumpco to injunctive relief and a civil penalty not  
16 to exceed \$32,500 per day for each violation occurring after  
17 March 15, 2004 and \$27,500 per day for each violation occurring  
18 between January 31, 1997 and March 15, 2004. 33 U.S.C.  
19 § 1319(d); 40 C.F.R. § 19.4.

20 **ELEVENTH CLAIM FOR RELIEF**  
21 **(CWA, Violations of Nevada General Permit:**  
22 **Failure to Retain Original NOI and Submit a**  
23 **New NOI for Permit Re-issuance)**

24 71. Paragraphs 1 through 17 are realleged and incorporated  
25 herein by reference.

26 72. Part I, provision A.2.a of the Nevada General Storm  
Water Permit requires dischargers to retain a copy of the Notice

1 of Intent to be covered by the General Permit ("NOI") submitted  
2 to obtain coverage under the permit.

3 73. Part III, provision A.1. of the Nevada General Storm  
4 Water Permit mandates that "[i]f the permittee desires to  
5 continue to discharge, he shall submit a NOI . . . not later than  
6 180 days before this permit expires. Dischargers shall retain a  
7 copy of the NOI."

8 74. RSSN and Republic Dumpco did not retain a copy of the  
9 NOI submitted on July 19, 1993. RSSN and Republic Dumpco failed  
10 to retain a copy of the original NOI from approximately July 19,  
11 1993 until the present.

12 75. The Nevada General Storm Water Permit expired on May  
13 14, 1998. The NOI for permit re-issuance was due on November 14,  
14 1998, 180 days prior to May 14, 1998.

15 76. RSSN and Republic Dumpco did not submit the required  
16 NOI on November 14, 1998.

17 77. RSSN and Republic Dumpco's failure to retain the  
18 original NOI, and failure to submit a new NOI for permit re-  
19 issuance violates the CWA and the Nevada General Storm Water  
20 Permit, and subjects RSSN and Republic Dumpco to injunctive  
21 relief and a civil penalty not to exceed \$32,500 per day for each  
22 violation occurring after March 15, 2004 and \$27,500 per day for  
23 each violation occurring between January 31, 1997 and March 15,  
24 2004. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4.

**TWELFTH CLAIM FOR RELIEF**  
**(CWA, Violations of Nevada General Permit:**  
**Failure to Pay Annual Fee)**

78. Paragraphs 1 through 17 are realleged and incorporated herein by reference.

79. Part I, provision A.4 of the Nevada General Storm Water Permit mandates the payment of a \$200 annual fee.

80. RSSN and Republic Dumpco failed to pay the permit fee from at least January 1, 1994 until December 16, 1999.

81. RSSN and Republic Dumpco's failure to pay the annual fees violated the CWA and the Nevada General Storm Water Permit, and subjects RSSN and Republic Dumpco to injunctive relief and a civil penalty not to exceed \$27,500 per day for each violation.  
33 U.S.C. § 1319(d); 40 C.F.R. § 19.4

**THIRTEENTH CLAIM FOR RELIEF**  
**(Trespass on BLM Land)**

82. Paragraphs 1 through 17 are realleged and incorporated herein by reference.

83. Defendants committed trespass by intentionally entering and placing waste upon BLM land. Defendants had no legal authority to enter such land. Defendant are therefore liable to the United States for trespass damages.

**FOURTEENTH CLAIM FOR RELIEF**  
**(Violations of Lease and Permits with BLM)**

84. Paragraphs 1 through 17 are realleged and incorporated herein by reference.

1           85. Clark County has violated terms and conditions of the  
2 lease entered into between BLM and Clark County for leasing the  
3 Landfill.

4           86. Clark County has violated terms and conditions of the  
5 Special Use Permit issued by BLM on July 3, 1952 and renewed by  
6 BLM on October 17, 1957.

7           87. Clark County is therefore liable to the United States  
8 for breach of the lease and breach of the Special Use Permit.

9                                   **PRAYER FOR RELIEF**

10           WHEREFORE, Plaintiff, the United States of America,  
11 prays that this Court:

12           1. Issue an injunction requiring Defendants to comply with  
13 the CWA storm water requirements and comply with the State of  
14 Nevada's General Permit No. GNV0022233;

15           2. Assess, pursuant to 33 U.S.C. § 1319(d), civil  
16 penalties for violations of the CWA and State of Nevada's General  
17 Permit No. GNV0022233;

18           3. Issue an injunction requiring Defendants to comply with  
19 EPA's Administrative Orders, and otherwise take such action as  
20 may be necessary to abate the endangerment;

21           4. Assess, pursuant to 42 U.S.C. § 6973(b), civil  
22 penalties for violations of the RCRA Order;

23           4. Award damages for trespass and violations of the lease;

24           5. Award Plaintiff its costs and disbursements in this  
25 action; and  
26

6. Grant such other relief as the Court deems appropriate.

Respectfully submitted,

GREGORY A. BROWER  
United States Attorney  
District of Nevada

/s/ Robert R. Edelman  
ROBERT R. EDELMAN  
Assistant United States Attorney  
Nevada State Bar No. 8438  
333 Las Vegas Boulevard South,  
Suite 5000  
Las Vegas, Nevada 89101  
Telephone: (702) 388-6336  
Facsimile: (702) 388-6787  
E-mail: robert.edelman@usdoj.gov

RONALD J. TENPAS  
Assistant Attorney General  
Environment & Natural Resources  
Division  
U.S. Department of Justice

/s/ Steven O'Rourke  
STEVEN O'ROURKE  
Signing under LR IA 10-3  
Environmental Enforcement Section  
Environment & Natural Resources  
Division  
United States Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Phone: (202) 514-2779  
Fax: (202) 514-2583